

ORDINANCE NO. 2003-\_\_\_\_\_

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF LEON COUNTY, FLORIDA, AMENDING CHAPTER 11, OF THE CODE OF LAWS OF LEON COUNTY, FLORIDA, BY CREATING ARTICLE XX ENTITLED "PUBLIC SERVICE TAX"; PROVIDING FOR THE LEVY AND AMOUNT OF THE TAX; PROVIDING FOR THE COLLECTION AND REMITTANCE OF THE TAX; PROVIDING FOR COMPENSATION TO THE SELLER OF THE UTILITY SERVICE FOR COLLECTING THE TAX; PROVIDING THAT IT SHALL BE UNLAWFUL FOR A SELLER TO FAIL TO COLLECT, REPORT AND REMIT THE TAX; PROVIDING FOR EXEMPTIONS; PROVIDING FOR AN AUDIT; AUTHORIZING THE PROMULGATION OF RULES AND REGULATIONS; PROVIDING FOR PENALTIES; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF LEON COUNTY, FLORIDA, that:

**Section 1.** Chapter 11 of the Code of Laws of Leon County, Florida, is hereby amended by adding a new Article to be numbered XX, which shall read as follows:

**ARTICLE XX. PUBLIC SERVICE TAX**

**Section 11-600. Levy; amount.**

(a) There is hereby levied and imposed by the County upon each and every purchase of electricity, water, and metered or bottled gas within the unincorporated areas of the County a Public Service Tax ("PST") in the amount of ten percent (10%). Such tax shall be calculated, levied and imposed upon each separate bill or statement for purchases rendered by the seller of the taxable item to each purchaser of such service.

(b) There is hereby levied and imposed by the County upon each and every purchase of fuel oil within the unincorporated areas of the County a PST in the amount of four cents (\$0.04) per gallon. The purchase of fuel oil by a public or private utility for use as a fuel in the generation of electricity or the purchase of fuel oil for use an aircraft engine fuel or propellant or for use in internal combustion engines is exempt from taxation hereunder.

**Section 11-601. Collection; remittance; compensation to seller.**

(a) It shall be the duty of each seller of electricity, water, metered or bottled gas, and fuel oil to collect from the purchaser at the time of payment for such service the PST imposed and levied pursuant to the provisions of this Article. It shall be the responsibility of the seller/collector to remit all such PST imposed, levied, and collected pursuant to the provisions of this Article, to the County by the twentieth of the month following the month of collection, accompanied by a form as required by the County for the orderly reporting and certification of the necessary information.

(b) If such collections are received by the Clerk of Leon County by the twentieth of the month in accordance with the provisions of this Article, the seller/collector will be allowed a discount equal to the lesser of two percent (2%) of the taxes collected, or one thousand dollars (\$1,000.00), as compensation for collecting such tax. If such tax collections do not reach the Clerk of Leon County until after the twentieth of the month, the full amount of such tax imposed and levied will be due. Taxes not received thirty (30) days after collection will be considered delinquent.

**Section 11-602. Failure to collect, report or remit tax.**

It shall be unlawful for any person to continue to sell or deliver any electricity, water, metered or bottled gas, and fuel oil within the unincorporated areas of the County who shall fail to collect, report and remit to the County the PST imposed and levied pursuant to the terms of this Article. Any seller failing to collect such PST at the time of collecting the price of any purchase and sale, where

1 the seller has not elected to assume and pay such PST, shall be liable to the County for the amount  
2 of such PST in like manner, as if the same had actually been paid to the seller; and the County shall  
3 bring and cause to be brought all such suits and actions and take such proceedings as may be  
4 necessary for the recovery of such tax. Interest shall be assessed for failure to pay any PST when due  
5 or to file any required return at a rate of 1 percent per month of the delinquent tax from the date the  
6 tax was due until paid.

7 **Section 11-603. Exemptions.**

8 The tax imposed by this Article shall not apply to purchases of electricity, water, metered or  
9 bottled gas, or fuel oil by the United States government, the State of Florida, the City of Tallahassee,  
10 Leon County, school districts, or to any recognized church for use exclusively for church purposes.

11 **Section 11-604. Audit.**

12 (a) Each and every seller of electricity, water, metered or bottled gas, and fuel oil within  
13 the unincorporated area of the County, with respect to sales and purchases on which the tax is hereby  
14 levied, shall keep full and complete records for a period of 36 months following remittance of the  
15 PST, showing all purchases and sales of such electricity, water, metered or bottled gas, and fuel oil  
16 within the unincorporated area of the County, which records show the price charged upon each sale  
17 and purchase, the date and period of time covered thereby, and the date of payment thereof.

18 (b) The County may at its sole discretion conduct an audit of a seller/collector at such  
19 time as it deems necessary, to determine that the tax imposed and levied has been properly collected  
20 and remitted pursuant to the provisions of this Article. The records referred to in subsection (a)  
21 above shall, within sixty (60) days prior notice by the County, be open for inspection by duly-  
22 authorized agents of the County during regular business hours of the seller at a place designated by  
23 the seller at the sole expense of the County. The agents of the County shall have the right, power,

1 and authority to make such transcripts or copies thereof as they may desire. Notice of intent to audit  
2 by the County shall be given in accordance with Florida law.

3 (c) It shall be the duty of the seller/collector to remit all such taxes whether collected or  
4 not. The County reserves the right to bill and collect from the seller/collector for unremitted taxes  
5 as may be discovered from an audit for 36 months prior to the date upon which the audit commences.

6 **Section 11-605. Rules and regulations authorized.**

7 The County and Clerk of Leon County are hereby authorized to promulgate and establish  
8 reasonable rules and regulations for the report and payment of the tax imposed and levied pursuant  
9 to the provisions of this Article.

10 **Section 11-606. Penalty for Violation.**

11 Any purchaser willfully failing or refusing to pay the tax imposed by this Article, where the  
12 seller has not elected to assume and pay such tax, and any seller violating the provisions of this  
13 Article, or any officer, agent, or employee of any seller violating provisions of this Article, may be  
14 punished as provided in Section 1-9. The County may further bring suit to a constrain, enjoin, or  
15 otherwise prevent the violation of this Article and shall be entitled to reasonable attorneys fees if it  
16 prevails in such suit. The penalties referenced in this section are supplementary to and in addition  
17 to the penalties set forth in Section 11-602. The County retains the discretion to enforce this  
18 ordinance in any manner authorized by law or ordinance.

19 **Section 2. Conflicts.** All ordinances or parts of ordinances in conflict with the  
20 provisions of this ordinance are hereby repealed to the extent of such conflict, except to the extent  
21 of any conflicts with the Tallahassee-Leon County 2010 Comprehensive Plan as amended, which  
22 provisions shall prevail over any parts of this ordinance which are inconsistent, either in whole or  
23 in part, with the said Comprehensive Plan.

**Section 3. Severability.** If any word, phrase, clause, section or portion of this ordinance shall be held invalid or unconstitutional by a court of competent jurisdiction, such portion or words shall be deemed a separate and independent provision and such holding shall not affect the validity of the remaining portions thereof.

**Section 4. Effective Date.** This ordinance shall have effect upon becoming law. The PST as levied and imposed by this Article, shall become effective on October 1, 2003, and shall apply to all purchases of electricity, water, metered or bottled gas, fuel oil occurring on or after October 1, 2003.

DULY PASSED AND ADOPTED BY the Board of County Commissioners of Leon County, Florida, this \_\_\_\_\_ day of \_\_\_\_\_, 2003.

LEON COUNTY, FLORIDA

BY: \_\_\_\_\_  
TONY GRIPPA, CHAIRMAN  
BOARD OF COUNTY COMMISSIONERS

ATTESTED BY:  
BOB INZER, CLERK OF THE COURT

BY: \_\_\_\_\_  
CLERK

APPROVED AS TO FORM:  
COUNTY ATTORNEY'S OFFICE  
LEON COUNTY, FLORIDA

BY: \_\_\_\_\_  
HERBERT W.A. THIELE, ESQ.  
COUNTY ATTORNEY

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